

Application of Robert Getts  
Serial No. 09/802,162 filed 3/8/2001  
Response of 9/7/2004 to Office Action of 3/5/2004

#### Remarks

Receipt is acknowledged of the Office Action of March 5, 2004 in the above-captioned matter. Reconsideration of the application and a three month extension of the time provided for a response are requested. A Request for Continued Examination is included herein as well. The Commissioner is hereby authorized to charge Deposit Account 50-1604 for all amounts required.

In the Office Action, the claims of the applications were provisionally rejected under the judicially created doctrine of obviousness-type double patenting (which was maintained from the prior Office Action). As in the prior response, it is respectfully requested that opportunity be provided to first ascertain what may be the scope of any approved claims in the co-pending application before further action by Applicant. In the event that the rejection is maintained, it is believed that the rejection can be obviated, for example, via a terminal disclaimer.

In the Office Action, the claims were also rejected under 35 U.S.C. §103(a) based on Dellinger et al. (U.S. Patent No. 5,853,993) in combination with Schena et al. (Science, Vol. 270, pp. 467-470, 1995). Reconsideration of the rejections is respectfully requested.

The Office Action indicated that Dellinger teaches a method utilizing a second component comprising a dendrimer. However, upon review of the reference, counsel has not located any references to dendrimers or dendritic nucleic acids within the reference. Rather, the Dellinger reference appears to be directed to hairpin reporter probes. *See e.g.*, Dellinger, Col. 10 lines 22-26.

Yet, hairpin reporters are different molecules than dendrimers. For example, it is believed that a hairpin structure such as that disclosed in Dellinger would melt and re-anneal if used on a microarray (e.g. under the assay conditions disclosed in the application), resulting in cross-hybridizations which

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would interfere with the results of the assay. Accordingly, it is submitted that it would not be obvious to one of ordinary skill to combine the teachings of Dellinger with those of Schena to achieve the subject matter of the pending claims, all of which are directed to methods for use on a microarray.

Moreover, even if one did combine the references, it is respectfully submitted that it would still not teach or suggest the claimed inventions. Both of Dr. Gett's independent claims are directed to methods using dendrimers, but counsel has not been able to locate any mention of dendrimers in either the Dellinger or the Schena reference.

In view of the above, favorable action on the pending claims is respectfully requested and believed fully warranted.

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Respectfully submitted,



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